AF JAW

PATENT

Attorney Docket No.: 032286WN006

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Patent Application of:	)	
	)	
Roberto Alcantara Martins ZUCCHETTI, et. al.	)	
	)	
Appln. No.: 09/786,057	)	Group Art Unit: 1614
	)	
Filed: June 26, 2001	)	Examiner: R. J. Henley III

For : PROCESS AND COMPOSITION FOR ENHANCING THE ACTION OF VITAMIN A ON THE CELLULAR ACTIVITY OF AN INDIVIDUAL, AND USE OF VITAMIN C

APPEAL BRIEF

(1) Real Party in Interest

The present application is assigned to NATURA COSMETICOS S.A., a corporation of Brazil having a place of business at RUA AMADOR BUENO, 491, SANTO AMARO, 04752-900, SAO PAULO-SP, BRAZIL.

(2) Related Appeals and Interferences

To the best of the undersigned's knowledge, no other appeals or interferences will directly affect, will be directly affected by, or will have a bearing on the Board's Decision in this appeal.

(3) Status of Claims

Claims 1-7 and 11-20 remain pending in the application and are under appeal. These claims are attached to this Brief, as required by 37 C.F.R. § 1.192(c)(9).

(4) Status of Amendments

1) Appellants filed an Amendment (under 37 C.F.R. § 1.111) on April 24, 2002. This Amendment has been entered and made of record and has been considered by the Examiner.

2) Appellants filed an After-Final Amendment (under 37 C.F.R. § 1.116) on December 2, 2002. This Amendment has been entered and made of record and has been considered by the Examiner.

3) Appellants filed a Request for Continuing Examination and accompanying Amendment (under 37 C.F.R. § 1.111) on June 27, 2003. This Amendment has been entered and made of record and has been considered by the Examiner.

4) Appellants filed an Amendment (under 37 C.F.R. § 1.111) on February 9, 2004. This Amendment has been entered and made of record and has been considered by the Examiner.

5) Appellants filed an After-Final Amendment (Under 37 C.F.R. § 1.116) on October 21, 2004. This Amendment has been entered for the purposes of this Appeal and made of record and has been considered by the Examiner.

(5) Summary of Claimed Subject Matter

The invention, according to claim 1, relates to a composition for enhancing the action of Vitamin A on the cellular activity of an individual. The composition includes a plurality of dispersed microspheres. Moreover, the plurality of microspheres include Vitamin A and an antioxidant inserted into a first group of microspheres, and Vitamin C inserted into a second group of microspheres. See Page 5, Lines 7-10. Furthermore, the microspheres are made of biologically active material. See Page 5, Lines 3-6.

Claim 2 limits the composition according to claim 1 to where the Vitamin C is present at a concentration of about 0.02% by weight, and the Vitamin A is present at a concentration of about 0.009% to 0.02% by weight, based on the total weight of the composition. See Page 4, Lines 20-24.

Claim 3 limits the composition according to claim 2 to where the Vitamin C is contained in the second group of microspheres at a concentration of 0.02%. See Page 5, Lines 9-14.

Claim 4 limits the composition according to claim 3 to where the first group of microspheres contains Vitamin A at an average concentration of about 0.014% by weight, based on the total weight of the composition. See Page 5, Lines 10-14.

Claim 5 limits the composition according to claim 4 to where the first group of microspheres contains Vitamin A at an average concentration of 0.014% and Vitamin E at an average concentration of 0.0005% by weight. See Page 5, Lines 9-14. Moreover, cosmetic compounds selected from the group consisting of skin structures, micronutrients of the skin, sensory agents, solar protection factors, emulsifiers, thickeners, sequestrants, antioxidants, fragrances, conservants, water and mixtures thereof. Furthermore, skin structures are squalan and sphingolipide complexes, the micronutrients of the skin is seaweed extract, and the sensory agents are selected from the group consisting of moisteners, emollients, and silicones. See Page 5, Lines 14-24.

Claim 6 limits the composition according to claim 1 to where the Vitamin C to Vitamin A weight ratio ranges from about 1:1 to about 10:1. See Page 4, Line 16.

Claim 7 limits the composition according to claim 1 to where the antioxidant is Vitamin E. See Page 5, Lines 7-8.

Claim 11 limits the composition according to claim 5 to where the moisteners are selected from the group consisting of glycerin, hydroxy prolisilan, and combinations thereof. See Page 5, Lines 14-21 (see specification as amended April 24, 2002 to insert the generic terminology of the Trademarks).

Claim 12 limits the composition according to claim 5 to where the emollients are selected from the group consisting of buthylene glycol, cethyl lactate, and combinations thereof. See Page 5, Lines 14-21.

Claim 13 limits composition according to claim 5 to where the silicone is cyclomethicone. See Page 5, Lines 14-21.

Claim 14 limits the composition according to claim 5 to where the solar protection factors are selected from the group consisting of butyl methoxydibenzoyl methane, 3-(4-methylbenzylidene) camphor, and combinations thereof. See Page 5, Lines 14-21.

Claim 15 limits the composition according to claim 5 to where the emulsifiers are selected from the group consisting of acrylates/C10-30 alkyl acrylate crosspolymer associated with trietanolamin, soybean lecitin, and combinations thereof. See Page 5, Lines 14-21.

Claim 16 limits the composition according to claim 5 to where the thickener is xanthan gum. See Page 5, Lines 14-21.

Claim 17 limits the composition according to claim 5 to where the sequestrant is ethylene diamine tetraacetate (EDTA). See Page 5, Lines 14-21.

Claim 18 limits the composition according to claim 5 to where the antioxidants are selected from the group consisting of buthyl hydroxytoluene (BHT), dl-α-tocopherol, and combinations thereof. See Page 5, Lines 14-21.

Claim 19 also concerns a composition for enhancing the action of Vitamin A on the cellular activity of an individual. The composition according to claim 19 includes a plurality of dispersed microspheres. The plurality of microspheres include Vitamin A and an antioxidant inserted into a first group of microspheres, and Vitamin C inserted into a second group of microspheres. See Page 5, Lines 7-10. Moreover, the microspheres are made of biologically active material. See Page 5, Lines 3-6. Furthermore, the Vitamin C is present in an amount effective for enhancing the action of the Vitamin A on the cellular activity of an individual. See Page 3, Lines 6-7 and Page 4, Lines 1-5.

Claim 20 also concerns a composition for enhancing the action of Vitamin A on the cellular activity of an individual. The composition of claim 20 includes a plurality of dispersed microspheres. The plurality of microspheres include Vitamin A and an antioxidant inserted into

a first group of microspheres, and Vitamin C inserted into a second group of microspheres. See Page 5, Lines 7-10. Moreover, the microspheres are made of biologically active material. See Page 5, Lines 3-6. Furthermore, the Vitamin C is present at a concentration of about 0.02% by weight and the Vitamin A is present at a concentration of about 0.009% to 0.02% by weight, based on the total weight of the composition. See Page 4, Lines 20-24.

(6) Grounds of Rejection to be Reviewed on Appeal

The following issue is presented for consideration in this appeal:

Claims 1-7 and 11-20 stand rejected under 35 U.S.C. § 103(a), as obvious based on Rinaldi et al. (U.S. Pat. No. 5,891,470) in view of Huc et al. (U.S. Pat. No. 5,395,620).

(7) Argument

The rejection under 35 U.S.C. §103(a) fails to establish *prima facie* obviousness.

The issue in this application concerns the Examiner's final rejection of the claims under 35 USC § 103(a), as purportedly obvious based on Rinaldi et al. (U.S. Pat. No. 5,891,470) in view of Huc et al. (U.S. Pat. No. 5,395,620).

Independent Claim 1 (from which claims 2-7 and 11-18 all ultimately depend) describes the Appellants' composition as a composition for enhancing the action of Vitamin A on the cellular activity of an individual. The composition includes a plurality of dispersed microspheres. Moreover, the plurality of microspheres include Vitamin A and an antioxidant inserted into a first group of microspheres, and Vitamin C inserted into a second group of microspheres. Furthermore, the microspheres are made of biologically active material.

Rinaldi discloses soft gel compositions wherein vitamin A and C are impregnated into microparticles. See Column 2, Lines 12-30; See Column 4, Line 58 – Column 5, Line 30. The soft gel compositions also include a silicone oil or silicone oil emulsion that is in contact with the microparticles. As previously conceded by the Examiner, Rinaldi fails to teach or fairly suggest

using biologically active microcapsules. In other words, the Examiner has conceded that Rinaldi's microparticles are not the same as the claimed microspheres made of biologically active material. Huc fails to remedy at least this deficiency of Rinaldi. Huc describes microcapsules which are not compatible with the composition described by Rinaldi. For example, if the microcapsules of Huc were placed in an oily medium (i.e. the silicone oil medium or oil emulsion medium used by Rinaldi), the vitamin A would permeate to the medium. Furthermore, if the microcapsules were placed in an aqueous medium, the vitamin C would permeate to the medium and, as a result, no longer protect the active ingredient in the formulation. In other words, the vitamin C would degrade. Accordingly, for the reasons described above, neither Rinaldi nor Huc provide the requisite motivation to those of ordinary skill in the art to modify the invention of Rinaldi with the teachings of Huc as suggested by the Office Action. This is because, as stated above, Huc's microcapsules are simply not compatible with the soft gel composition described by Rinaldi.

a) The teachings of Rinaldi and Huc teach away from one another.

Rinaldi and Huc actually teach away from the other. Rinaldi teaches that its soft gels are not compatible with water because the water will degrade the gelatin shell of the soft gel. See Column 1, Lines 40-45. Moreover, Rinaldi further teaches, "Suitable microparticles for this invention are solid, water-insoluble, polymeric microparticles." See Column 2, Lines 35-38. This is why Rinaldi specifically uses non-biologically active microparticles. In contrast, Huc teaches using particles which are biocompatible because they are made of atecollagen (a water soluble derivative of collagen). *See the Abstract.* Thus, Rinaldi specifically teaches away from using Huc's collagen containing particles as they would degrade. In other words, Huc's microcapsules are simply not compatible with soft gel formulations of Rinaldi.

Using Huc's collagen containing particles would actually ruin the composition of Rinaldi. The M.P.E.P. teaches, "If proposed modification would render the prior art invention being

modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984)." MPEP § 2143.01. Accordingly, not only does Rinaldi and Huc fail to provide the requisite motivation to those of ordinary skill in the art to modify the invention of Rinaldi with the teachings of Huc, there is also no reasonable expectation of success.

The Examiner has previously asserted that it is well known that vitamin C and vitamin E would permeate to their respective hydrophilic and hydrophobic environment and that the skilled artisan would take preventive measures. However, there is no teaching in either cited documents which suggests addressing the problem. Moreover, the Examiner fails to provide any evidence that those of ordinary skill in the art would recognize such problems and know how to compensate for them. It is the Appellants that have discovered a way to achieve a system which is capable of providing stability to the vitamin C in a aqueous medium and thus avoid the diffusion of vitamin A and vitamin C to the bulk formulation. Hence, this rejection is improperly based on hindsight. Moreover, it is improper to determine whether a person of ordinary skill would have been led to this combination of references based upon hindsight. In re Sang Su Lee, 277 F.3d 1338, 61 USPQ2d 1430 (Fed. Cir. 2002).

b) The specification shows a synergistic effect.

The present invention demonstrates the synergy between the ascorbic acid and retinol in the cellular activity. This effect is shown in the Figures and described in the instant specification. This effect was surprisingly detected by the present inventors since there was no indication of such technical result in the literature.

Rinaldi uses vitamin concentrations which are much higher than the present invention. The advantage provided by Appellants' invention with respect to using lower vitamin concentrations is explained by the releasing mechanism of the microcapsules claimed in that patent. According to the teachings of Rinaldi, the vitamins are released on the skin surface and

should permeate the skin until reaching the target sites. Upon permeating the skin, the vitamins (which are natural antioxidants) may be inactivated. Therefore, the actual vitamin concentration acting on the target sites is much lower than the concentration initially present in the formulation. Thus, an initial higher concentration must be used in the product disclosed by Rinaldi.

In contrast, the present inventors developed a formulation where a particular vitamin association has the effect on the cellular activity as shown in the graphs included in the present application. As they are substances that may undergo the above mentioned degradation in cosmetic formulations, microcapsules are employed to protect the vitamins.
In addition, when retinol is present on the skin surface it may cause serious damage to the user if that skin portion is exposed to the sunlight. This is a further drawback of the Rinaldi composition. Moreover, this is also another distinguishing advantage of Appellants' composition. In the present invention, the microcapsules are used in order to ensure that the vitamins will permeate the skin and reach their the target sites, wherein those microcapules are broken through enzymatic reactions, thus releasing the vitamins directly in the skin inner part.

The combination of Rinaldi and Huc would not have rendered the claimed invention obvious to those of ordinary skill. A proper *prima facie* case of obviousness does not entail the mere citing of references in an effort to show that one or more claimed elements, when viewed in a vacuum, are known. Rather, to establish a *prima facie* case of obviousness the Examiner must show how one skilled in the art would have found it obvious to choose elements or concepts from the various references so as to arrive at the claimed invention without using Appellant's own disclosure and claims as a guide. Ex parte Clapp, 227 USPQ 972 (BPAI 1985).

In Appellants' invention, microcapsules, which are made of biologically active material, are used in order to protect retinol and ascorbic acid and make it possible to prepare stable cosmetic compositions. Appellants' microparticles make preparation and packing much easier, without the need of complex and expensive processes. In addition, because of the use of the microparticles, the water content of Applicants' formulation can be over 40%, which would

normally be an appropriate medium for the degradation of ascorbic acid. However, degradation does not happen due to the presence of the microcapsules which act as a barrier for the contact of LAA with water.

As discussed above, Appellants' invention includes a first group of microparticles containing retinol and a second group of microparticles containing ascorbic acid. This second group, having a composition different from the first group, when contacted with the skin, penetrate the skin, and only release the contents thereof due to enzymatic reactions. Thus, retinol and ascorbic acid are released in a region very close to the target cells. Consequently, the retinol and ascorbic acid are not exposed to conditions that can lead to degradation (such as light, oxygen and water when on the skin, and water and free radicals when in the inner layers of the skin).

In view of the above, Appellants submit that those of ordinary skill in the art could come up with the present invention only after reading the present application. Thus, Appellants submit the rejection is improperly based on hindsight. This is because, as explained above, the teachings of these two cited patents would not have been sufficient to lead one of ordinary skill in the art to the present invention.

The requirement that to establish a *prima facie* case of obviousness, the Examiner must provide factual support from the cited patents for the proposed modification as been stressed by the courts. This factual support must be based on objective evidence of record and must establish that the cited patents themselves provide the requisite motivation, suggestion, or teaching regarding the desirability of making the specific combination made by the Appellant. The factual question of motivation is material to patentability, and can not be resolved on subjective belief and unknown authority. It is improper to determine whether a person of ordinary skill would have been led to this combination of references based upon hindsight. In re Sang Su Lee, 277 F.3d 1338, 61 USPQ2d 1430 (Fed. Cir. 2002).

Dependents claims 2-7 and 11-18 contain al of the features of independent claim 1 and thus for at least the same reasons stated above are not rendered obvious by the combined teachings of Rinaldi and Huc.

Appellants make the following additional comments with respect to independent claims 19 and 20. Claim 19 states that the Vitamin C is present in an amount effective for enhancing the action of the Vitamin A on the cellular activity of an individual. Claim 20 states that the Vitamin C is present at a concentration of about 0.02% by weight, and the Vitamin A is present at a concentration of about 0.009% to 0.02% by weight, based on the total weight of the composition. Neither of these two features are taught or fairly suggested by Rinaldi or Huc. Moreover, contrary to the Examiner's assertion, the specification and Figures provide ample evidence showing the synergistic effect that occurs as a result of the claimed invention.

Appellants respectfully urge that the asserted rejection over Rinaldi and Huc is overcome, and withdrawal of the rejection is requested.

For the reasons set forth above, Appellants respectfully submit that the rejections under 35 U.S.C. § 103(a) of record is improper, and that the rejection of the claims is therefore overcome. Appellants therefore respectfully request that the rejection of the Examiner be reversed.

Respectfully submitted,

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Dated: May 4, 2005

(8) Claims Appendix

Pursuant to 37 C.F.R. § 1.192(c)(9), this contains a clean copy of claims 1-6 and 8-10 which are the claims involved in this appeal.

Claim 1 (previously presented): A composition for enhancing the action of Vitamin A on the cellular activity of an individual, comprising a plurality of dispersed microspheres, said plurality of microspheres comprising Vitamin A and an antioxidant inserted into a first group of microspheres, and Vitamin C inserted into a second group of microspheres;
wherein said microspheres are made of biologically active material.

Claim 2 (previously presented): The composition according to claim 1, wherein Vitamin C is present at a concentration of about 0.02% by weight, and Vitamin A is present at a concentration of about 0.009% to 0.02% by weight, based on the total weight of the composition.

Claim 3 (previously presented): The composition according to claim 2, wherein Vitamin C is contained in the second group of microspheres at a concentration of 0.02%.

Claim 4 (previously presented): The composition according to claim 3, wherein the first group of microspheres contains Vitamin A at an average concentration of about 0.014% by weight, based on the total weight of the composition.

Claim 5 (previously presented): The composition according to claim 4, wherein the first group of microspheres contains Vitamin A at an average concentration of 0.014% and Vitamin E at an average concentration of 0.0005% by weight, and cosmetic compounds selected from the group consisting of skin structures, micronutrients of the skin, sensory agents, solar protection factors,

emulsifiers, thickeners, sequestrants, antioxidants, fragrances, conservants, water and mixtures thereof,

wherein said skin structures are squalan and sphingolipide complexes,

said micronutrients of the skin is seaweed extract, and

said sensory agents are selected from the group consisting o f moisteners, emollients, and silicones.

Claim 6 (previously presented): The composition according to claim 1, wherein the Vitamin C to Vitamin A weight ratio ranges from about 1:1 to about 10:1.

Claim 7 (previously presented): The composition according to claim 1, wherein the antioxidant is Vitamin E.

Claim 11 (previously presented): The composition according to claim 5, wherein the moisteners are selected from the group consisting of glycerin, hydroxy prolisilan, and combinations thereof.

Claim 12 (previously presented): The composition according to claim 5, wherein the emollients are selected from the group consisting of buthylene glycol, cethyl lactate, and combinations thereof.

Claim 13 (previously presented): The composition according to claim 5, wherein the silicone is cyclomethicone.

Claim 14 (previously presented): The composition according to claim 5, wherein the solar protection factors are selected from the group consisting of butyl methoxydibenzoyl methane, 3-(4-methylbenzylidene) camphor, and combinations thereof.

Claim 15 (previously presented): The composition according to claim 5, wherein the emulsifiers are selected from the group consisting of acrylates/C10-30 alkyl acrylate crosspolymer associated with trietanolamin, soybean lecitin, and combinations thereof .

Claim 16 (previously presented): The composition according to claim 5, wherein the thickener is xanthan gum.

Claim 17 (previously presented): The composition according to claim 5, wherein the sequestrant is ethylene diamine tetraacetate (EDTA).

Claim 18 (previously presented): The composition according to claim 5, wherein the antioxidants are selected from the group consisting of buthyl hydroxytoluene (BHT), dl-α-tocopherol, and combinations thereof.

Claim 19 (previously presented): A composition for enhancing the action of Vitamin A on the cellular activity of an individual, comprising a plurality of dispersed microspheres, said plurality of microspheres comprising Vitamin A and an antioxidant inserted into a first group of microspheres, and Vitamin C inserted into a second group of microspheres;
wherein said microspheres are made of biologically active material, wherein the Vitamin C is present in an amount effective for enhancing the action of the Vitamin A on the cellular activity of an individual.

Claim 20 (previously presented): A composition for enhancing the action of Vitamin A on the cellular activity of an individual, comprising a plurality of dispersed microspheres, said plurality

of microspheres comprising Vitamin A and an antioxidant inserted into a first group of microspheres, and Vitamin C inserted into a second group of microspheres;

wherein said microspheres are made of biologically active material, and Vitamin C is present at a concentration of about 0.02% by weight, and Vitamin A is present at a concentration of about 0.009% to 0.02% by weight, based on the total weight of the composition.

(9) Evidence Appendix

This includes Figures 1 and 2 from the present specification which are referred to at page 8, first complete paragraph, of this Appeal Brief as "the graphs included in the present application."

FIG. 1 - Without exposure to radiation

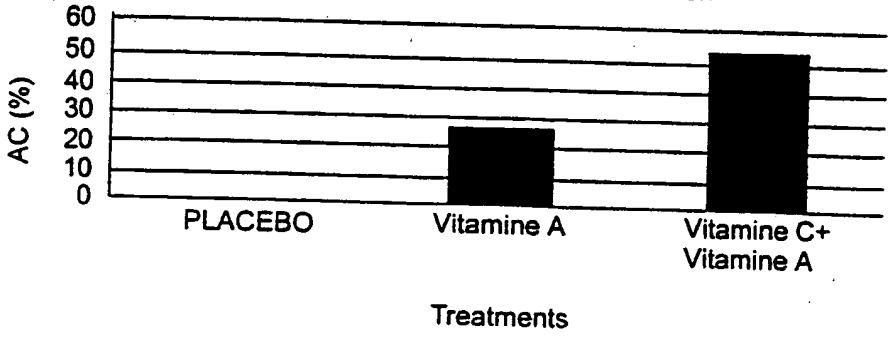
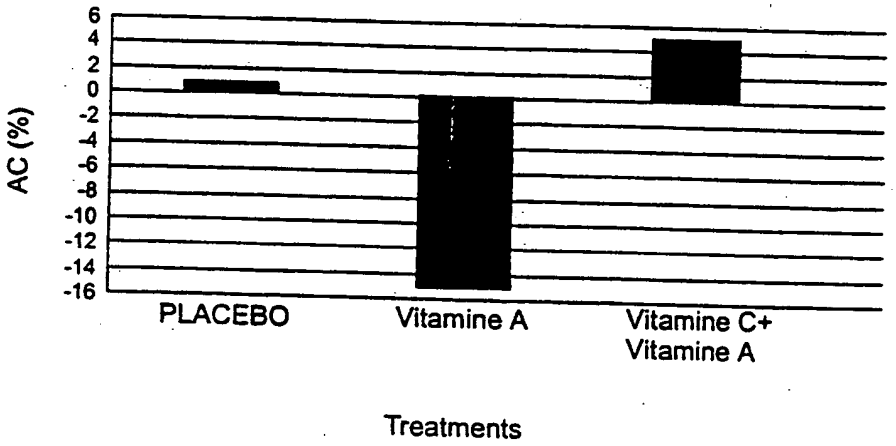


FIG. 2 - With exposure to radiation



(10) Related Proceedings Appendix

N/A

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Non-Compliant Response Due: 5/8/05

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/786,057	06/26/2001	Roberto Alcantara Martins Zucchetti	32286R006	6856

441 7590 04/08/2005

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EXAMINER	
ART UNIT	PAPER NUMBER

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.

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ART UNIT	PAPER
	04022005

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Commissioner for Patents

Note the attached form PTO-462 "Notification of Non-Compliant Appeal Brief (37 CFR 41.37).

Raymond J Henley III
Primary Examiner
Art Unit: 1614

L

Notification of Non-Compliant Appeal Brief (37 CFR 41.37)	Application No. 09/786,057	Applicant(s) ZUCCHETTI ET AL.
	Examiner Raymond J. Henley III	Art Unit 1614

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on *22 February 2005* is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file a complete new brief in compliance with 37 CFR 41.37 within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☒ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.

2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed or confirmed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).

3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).

4. ☐ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).

5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi))

6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).

7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).

8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner and relied upon by appellant in the appeal, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).

9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).

10. ☒ Other (including any explanation in support of the above items):

The Appeal Brief referenced above does not contain the proper headings and lacks certain sections as required under 37 CFR 41.37(c). The following changes should be made and incorporated in a new Appeal Brief which must be filed in the time period referenced above. At page 2 of the Brief, "(5) Summary of Invention" should be changed to read ---(5) Summary of Claimed Subject Matter---; at page 5 of the Brief, "(6) Issues" should be changed to read ---(6) Grounds of Rejection to be Reviewed on Appeal--- (note that under this heading, the section is no longer couched in terms of an issue, but rather of a simple statement of the ground of rejection, i.e., "Claims X to Y stand rejected under 35 U.S.C. Z"; at page 11 of the Brief, "(8) Appendix" should be changed to read (8) ---Claims Appendix--- (necessary verbiage to distinguish this Appendix from the following Appendices); [the following two Appendices MUST be present under 37 CFR 41.37(c)] following page 14 of the Brief, sections entitiled ---(9) Evidence Appendix--- and ---(10) Related Proceedings Appendix--- should be included [note, the "Evidence Appendix" should include any graphs, charts, publications, etc. that are relied on by Applicants].

U.S. Patent and Trademark Office
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Notification of Non-Compliant Appeal Brief (37 CFR 41.37)

Part of Paper No. 04022005

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